



June 25, 1999

Mr. Jerry Bruce Cain  
Assistant City Attorney  
City of Laredo  
P.O. Box 579  
Laredo, Texas 78042-0579

OR99-1774

Dear Mr. Cain:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125467.

The Laredo Police Department (the "department") received a request for documents pertaining to the internal affairs investigation of a complaint against Lieutenant Ivan Perez. You claim that the requested documents are excepted from disclosure pursuant to sections 552.101, 552.102, 552.108, 552.117, and 552.119 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.


Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses information made confidential by statute. You contend that the requested documents are confidential under section 143.089 of the Local Government Code. Section 143.089 contemplates two different types of personnel files, a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). In cases in which a police department takes disciplinary action against a police officer, the police department is required by section 143.089(a)(2) to place records relating to the investigation and disciplinary action in the officer's civil service file maintained under section 143.089(a). Such records are subject to release under chapter 552 of the Government Code. *See* Local Gov't Code § 143.089(f); Open Records Decision No. 562 at 6 (1990). However, information maintained in a police department's internal file pursuant to section

143.089(g) is confidential and must not be released. *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied).<sup>1</sup>

Section 143.089(b) states that information relating to alleged misconduct by a police officer may not be placed in the officer's civil service file if the police department determines that there is insufficient evidence to sustain the charge of misconduct. The submitted documents indicate that the complaint against Lieutenant Perez was not sustained. Therefore, the documents were not be placed in Lieutenant Perez's civil service file. The documents are being maintained in the department's internal file which is confidential under section 143.089(g). Accordingly, the department must withhold the documents from disclosure pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

  
Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 125467

Encl. Submitted documents

cc: Ms. Maria Perez  
Laredo Police Department  
4712 Maher Avenue  
Laredo, Texas 78041  
(w/o enclosures)

---

<sup>1</sup>We note that section 143.089(g) requires a police department who receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.